

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

JUN 10 2014

JAMES W. McCORMACK, CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION

DEP CLERK

DAVID MCVAY and
RACHEL MCVAY

PLAINTIFFS

V.

CASE NO. 4:14 cv 346 JLH

MID-WEST EXPRESS, INC. And
DZEVAD ALIJEVIC

DEFENDANTS

COMPLAINT

COMES the Plaintiffs, David McVay and Rachel McVay, by and through their attorneys,
and for their cause of action state:

This case assigned to District Judge Holmes
and to Magistrate Judge Ray

1. Plaintiffs, David and Rachel McVay, are husband and wife and are citizens and residents of Faulkner County, Arkansas.

2. Defendant Mid-West Express, Inc. is an interstate trucking company, doing business in the State of Arkansas but incorporated in the State of Kentucky, and having principal place of business in a state other than Arkansas.

3. Defendant Dzevad Alijevis is a citizen and resident of Clearwater Florida. At all times relevant to this cause of action, he was acting within the course and scope of his employment with Defendant Mid-West Express, Inc.

4. Complete diversity of citizenship exists as between Plaintiffs and Defendants, and the matter in controversy exceeds the sum and amount of \$75,000.00 exclusive of costs and interest. This Court has jurisdiction pursuant to 28 U.S.C. 1332.

5. This case concerns a motor vehicle collision that took place in St. Francis County, Arkansas, on June 4, 2014. At the time of the collision David McVay was operating a Ford 250

service vehicle, owned by his employer, Bennett Commercial Refrigeration. While traveling west bound on the inside lane of Interstate 40 (the outside lane was closed due to road construction) the Plaintiff's vehicle was rear ended by the Mid-West Express, Inc. truck driven by Defendant Dzevad Alijevic. The McVay vehicle was struck with such force that it was knocked across the shoulder of the road and into the dirt median, where it overturned one or more times. The Mid-West Express, Inc. truck continued to travel forward and struck another vehicle, operated by Spencer Gurkin, knocking the Gurkin vehicle into the rear of another tractor-trailer.

6. That as a result of the collision, the Plaintiff David McVay, suffered numerous broken bones, a ruptured spleen, a fractured back, and multiple cuts and contusions. His situation was such that he had to be transferred by air to "The Med" in Memphis, Tennessee, where he was placed in intensive care.

7. That Defendant, Dzevad Alijevic, was negligent in the following particulars:

- a). Driving too fast for conditions and while in a construction zone,
- b). Failing to keep a proper lookout;
- c). Failing to yield; and,
- d). Otherwise failing to exercise reasonable care in the operation of the Mid-West

Express, Inc. tractor/trailer.

7. That Defendant Mid-West Express, Inc. was the employer of Defendant, Dzevad Alijevic, and vicariously liable for any negligence on the part of its' driver.

8. That Plaintiff, David McVay, seeks the following damages:

- a. Permanent physical injury
- b. Medical expenses, past and reasonably anticipated to be incurred in the future;
- c. Pain, suffering and mental anguish, past and reasonably anticipated to be

experienced in the future;

- d. Loss of earnings and loss of future earnings capacity; and,
- e. Scarring.

9. That Plaintiff, Rachel McVay, was the spouse of David McVay at all times relevant to this cause of action. As a result of injuries to her husband she has been deprived of his services and society, and therefore claims damages for loss of consortium.

10. That the Plaintiffs seek damages in the amount of \$5,000,000.00.

11. That Plaintiffs demand a trial by jury.

WHEREFORE, Plaintiffs pray that at trial of this matter they be awarded judgment in the amount of \$5,000,000.00 against the defendants, and each of them, and for all other relief to which they may be entitled.

Respectfully submitted,

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